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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/196,867	11/20/1998	BRIAN KELSALL	14014.0312	9637

23859 7590 10/01/2002

NEEDLE & ROSENBERG P C  
127 PEACHTREE STREET N E  
ATLANTA, GA 30303-1811

EXAMINER

DECLoux, AMY M

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 10/01/2002

*26*

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/196,867

Applicant(s)

KELSALL ET AL.

Examiner

Amy M. DeCloux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 34.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

#### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7-15-02 (Paper No. 33) has been entered.

2. Claims 1-8 and 10 are pending and are being examined presently.

#### *Election/Restrictions*

3. A species election was required under 35 USC 121 in the parent application, and Applicant's election with traverse in Applicant's amendment, filed 11/16/99 (Paper No. 8), of a method of treatment which encompasses the species of autoimmune symptoms and diseases, specifically the subspecies inflammatory bowel disease, and also a method of treatment which encompasses the species of CR3, specifically the subspecies of antibodies to CR3, is acknowledged.

This species requirement is hereby reiterated.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. REINSTATED Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosen et al. (WO 89/04174, published May 18, 1989). *~Pg 3*

Rosen et al teach a method of administering an antibody (M1/70 as well as 5C6) with specificity for CR3 for the treatment or prophylaxis of inflammatory, autoimmune and hypersensitivity diseases, and in particular inflammatory bowel disease, and consequently its symptoms (see entire article, including the Abstract and second paragraph of page 8 and also page 9) as recited in the instant claims. Though the referenced teachings do not explicitly teach that administration of antibodies directed to CR3 down regulates interleukin-12 in a subject or treats the interleukin-12-induced inflammatory response, down regulation of interleukin-12 in a subject and treatment of an interleukin-12-induced inflammatory response would be inherent

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properties effected by administration of antibodies against CR3. Therefore the referenced teachings anticipate the claimed invention.

6. NEW Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Gorden et al.(J. Neuroimmunology 62:153-160 (1995)(IDS).

Gorden et al teach a method of administering an antibody with specificity for CR3 for the treatment of the autoimmune disease EAE, and consequently its symptoms, (see entire article, including column 2 of page 157 and column 1 of page 158 ) as recited in the instant claims. Though the referenced teachings do not explicitly teach that administration of antibodies directed to CR3 down regulates interleukin-12 in a subject or treats the interleukin-12-induced inflammatory response, down regulation of interleukin-12 in a subject and treatment of an interleukin-12-induced inflammatory response would be inherent properties effected by administration of antibodies against CR3. Therefore the referenced teachings anticipate the claimed invention.

### *Conclusion*


7. No Claim is allowed.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy M. DeCloux whose telephone number is 703 306-5821. The examiner can normally be reached on M-F 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 703 308-3973. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-3014 for regular communications and 703 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0196.

Amy DeCloux, Ph.D.,  
Patent Examiner,  
September 27, 2002

  
Patrick J. Nolan, Ph.D.  
Primary Patent Examiner,  
Group 1640